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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/814,241	03/21/2001	Shoichi Miyamoto	FUJx 18.462	2021
26304	7590	12/02/2004	EXAMINER	
KATTEN MUCHIN ZAVIS ROSENMAN 575 MADISON AVENUE NEW YORK, NY 10022-2585			PHU, SANH D	
			ART UNIT	PAPER NUMBER
			2682	

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/814,241

Applicant(s)

MIYAMOTO ET AL.

Examiner

Sanh D Phu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 1-27 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29 and 30 is/are allowed.
- 6) ☒ Claim(s) 28 and 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

### DETAILED ACTION

1. This Office Action is responsive to the Amendment filed on 09/22/04.

#### *Claim Rejections – 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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3. Claim 28 is rejected under 35 U.S.C. 102(e) as being anticipated by Hamabe (6,405,021).

As per claim 28, see figures 7, 11, 12 A and 12 B, and col. 13, line 55 to col. 16, line 48, Hamabe discloses a system (see figure 7) comprising:

first and second radio base stations (10a, 10b);

radio base station control equipment (20) for setting communication channels of said first and second radio base stations (see col. 11, lines 61–65, col. 12, lines 5–12 and col. 15, lines 13–15); and

channel control means (see figure 12a, 12b) for gradually updating transmitting power of a downstream communication channel of a mobile station that is to be set to said second radio base station (10b), said transmitting power updated from an initial value (P0) to a greater value during a hand-off process (see S6, S8–S14) where said mobile station communicates with said first radio base station (10b) or said second radio base station before transmitting power control is executed (see S15, S16), in accordance with a signal received from the mobile station (see S3).

4. Claim 31 is rejected under 35 U.S.C. 102(e) as being anticipated by Sendonaris et al (6,085,106).

As per claim 31, Sendonaris et al discloses a system comprising:

a mobile station (mobile radiotelephone) (see col. 1, lines 24–27);

radio base stations (see col. 1, lines 24–27) for executing transmitting power control of a downstream communication information to be transmitted to said mobile station in accordance with a signal (reverse link signal) received from said mobile station (see col. 6, lines 63–65) and receiving a state notice (reverse link multi-path profiles) representing the state of a signal received by a receiver and its searcher (see col. 6, lines 66–67) from said mobile station; and

channel control means (inherently included) for obtaining a propagation loss of a transmission channel of each radio base station according to said state notice at a the time of hand-off and setting an initial value of transmitting power (P1 or P2) at which said radio base station executes transmission to said mobile station with taking said propagation loss into account (see figures 2–4, col. 7, lines 9–64, and col. 8, line2 22–61).

*Allowable Subject Matter*

5. Claims 29 and 30 are allowed.

*Response to Arguments*

6. Applicant's arguments filed on 9/22/04 have been fully considered but they are not persuasive.

The applicant mainly argues that (i) with respect to claim 28, Hamabe does not teach that the transmitting power of a downstream communication channel to a mobile station is gradually updated, said transmitting power updated from an initial value to a greater value during a hand-off process wherein the updating occurs **before** transmitting power control is executed in accordance with a signal received from the mobile station; and (ii) with respect to claim 31, Sendonaris et al does not teach a message received from the mobile station which represents the state of a signal received by local station from the mobile station, as recited in the limitation "radio base stations for executing transmitting power control of a downstream communication information to be transmitted to said mobile station in accordance with a signal received from said mobile station and receiving a state notice message

representing the state of a signal received by a local station, an periphery base station from said mobile station”.

Regarding to part (i), the examiner respectfully disagrees. First of all, the applicant is notified hereby that the limitation “the updating occurs before transmitting power control is executed in accordance with a signal received from the mobile station” is found not being disclosed in the specification of the instant application. Secondly, the rejection is based on the limitations recited in the claim. Claim 28 discloses the limitation “said transmitting power updated from an initial value to a greater value during a hand-off process where said mobile station communicate with said first radio base station or said second radio base station **before** transmitting power control is executed in accordance with a signal received from the mobile station”. According to languages given in the limitation, it describes that the action “said mobile station communicate with said first radio base station or said second radio base station” is occurred **before** the action “transmitting power control is executed in accordance with a signal received from the mobile station”, and **does not describe** that the action “said transmitting power updated from an initial value

to a greater value during a hand-off process”, namely the updating (as argued by the applicant), is occurred **before** the action “transmitting power control is executed in accordance with a signal received from the mobile station”. Based on the above rationale and reasons set forth in the above rejection to the claim, it is believed that the limitations of claim are still met and therefore, the rejections are still maintained.

Regarding to part (ii), the examiner also disagrees. Sendonaris et al, as set forth in the above rejection, discloses radio base stations (see col. 1, lines 24–27) for executing transmitting power control of a downstream communication information to be transmitted to said mobile station in accordance with a signal (reverse link signal) received from said mobile station (see col. 6, lines 63–65) and receiving a state notice (multi-path profiles) representing the state of a signal received by a receiver and its searcher (see col. 6, lines 66–67) from said mobile station. Said multi-path profiles are considered here equivalent with “a state notice message” received from said mobile station, as recited in the claim, because said multi-path profiles are received from said mobile station (see col. 6, line 66 to col. 7, line 1), and

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represent the state (multi-path information) of a signal (from the reverse link)

received by local station (a receiver and its searcher) from the mobile station.

Further, the claim does not have other limitations to make "state notice

message" distinguishable from Sendonaris et al state notice (multi-path

profiles). Based on the above rationale, it is believed that the limitations of

claim are still met and therefore, the rejections are still maintained.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In


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no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sanh D Phu whose telephone number is (703)305-8635. The examiner can normally be reached on 8:00-16:30.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
LEE NGUYEN  
PRIMARY EXAMINER

Sanh D. Phu  
Examiner